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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/656,397

09/05/2003

Harry Herzog

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC

701 FIFTH AVE

SUITE 5400

SEATTLE, WA 98104

EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

03/27/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/656,397	<b>Applicant(s)</b> HERZOG, HARRY	
	<b>Examiner</b> Justin M. Larson	<b>Art Unit</b> 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 27-29,31,32 and 34-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-29,31,32 and 34-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Examiner notes that this office action contains grounds of rejection for subject matter that was previously indicated allowable, thereby making this action **NON-FINAL**.

#### ***Claim Objections***

2. Claims 31, 34, and 36 are objected to because as currently presented they depends from cancelled claim 30. For purpose of examination, Examiner assumes that claims 31, 34, and 36 are meant to depend from claim 27.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 27, 31, and 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iida et al. (US 2002/0174511 A1) in view of Vidal (US 6,732,411 B2), and further in view of Posson (US 2,638,130 A).

Regarding claim 27, Iida et al. disclose a power tool system comprising a blower including a blower motor (9), a blower fan (11) coupled to the motor and configured to be driven thereby, and a section of tubing (43) operatively coupled to the fan, through which the fan is configured to drive a stream of air. Iida et al. disclose a handle (44) attached to the tubing, but fail to disclose a blower strap made from a material having exposed elastomeric thread and a wrist strap.

Regarding the blower strap and wrist strap, Vidal teaches that a tool with a handle (56) may further comprise a strap system (68/74), which provides control and comfort during use of the tool. One part (68) of the strap system wraps around the tool while the other part (74) wraps around a user's hand. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a strap component on the tubing of Iida et al. in addition to the handle, as taught by Vidal, in order to provide a user with more control and comfort during use of the tool. Examiner notes that the strap system portion (74) is capable of being attached to a user's wrist and is configured to reduce the effect of vibration of the motor and fan on the user while the blower is in operation.

Regarding the blower strap being formed from a webbing material including elastomeric threads that are exposed on an outer surface of the blower strap, Vidal is silent as to the particular material from which the blower strap is made. Posson, however, discloses a webbing material where elastomeric threads (30) are woven into the webbing such that they are exposed on an outer surface of the material so as to provide a slip-resistant material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the blower strap of the modified Iida et al. system out of webbing having exposed elastomeric threads, as taught by Posson, in order to prevent multi-directional slipping of the blower strap (68) about the blower tube. Because Vidal is silent as to the particular material from which strap (68) is made, it is within the level of ordinary skill in the art to explore known materials and select any such known material that seems suitable for the intended purpose.

Regarding claim 31, the manner in which the wrist strap (74) of the modified lida et al. system is fastened to the blower strap (68) is not specified by Vidal. Looking at Figure 20 of Vidal, however, it is clear that stitching is used to construct the strap component. Furthermore, Examiner is of the position that it is old and well known in the art of strap to attach two straps together using stitching, as thread for stitching is cheap and the stitching itself is easy to implement. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the wrist strap (74) of the modified lida et al. system to the blower strap (68) using stitching, since stitching is a cheap and easy to implement.

Regarding claim 34, first and second ends of the blower strap of the modified lida et al. system are held in engagement with each other by hook-and-loop surfaces (72) attached to respective ends thereof.

Regarding claims 35 and 36, the wrist strap of the modified lida et al. system is length adjustable via hook-and-loop fasteners (78) such that it is capable of being adjustably attached to a user's wrist.

Regarding claim 37, the blower of the modified lida et al. system comprises a backpack frame (2) to which the motor is coupled and by which the user can carry the blower.

Regarding claim 38, the motor of the modified lida et al. system is a gasoline-powered engine ([0025] of lida et al.).

5. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over lida et al. in view of Vidal and Posson as applied above, further in view of Olsen (US 4,422,455 A).

The modified lida et al. system includes the claimed features except for the wrist strap (74) comprising a resilient member affixed to an inner surface thereof. Upshaw, however, teaches that such a strap (55) may comprise a resilient padding member (37) affixed to an inner surface thereof in order to protect a user's arm held therein. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a resilient member on an inner surface of the wrist strap (74) of the modified lida et al. system, as taught by Upshaw, in order to make the strap more comfortable about a user's wrist.

6. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over lida et al. in view of Vidal and Posson as applied above, further in view of Moore (US Des. 377,862 S).

The modified lida et al. system includes the claimed features except for there being a buckle extending between the wrist strap (74) and the blower strap (68). Moore, however, teaches that the wrist strap of a tool strap component may include a buckle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement a buckle on the wrist strap of the modified lida et al. system, as taught by Moore, in order to provide a length adjustment means in addition to or in place of the hook-and-loop fasteners as taught by Vidal. Such a buckle can be considered to extend between a portion of the wrist strap and the blower strap to the degree claimed.

***Response to Arguments***

7. Applicant's remarks filed 1/22/08 have been considered but are moot in view of the new ground(s) of rejection.

Upon further consideration, Examiner does not feel that the subject matter inserted into claim 27 is allowable over the art of record for the reasons set forth in the rejections above. Examiner feels that more details of the strap are required in order to define over that taught by Vidal. Limitations similar to those found in claim 7 of the originally filed claims might serve such purpose. Examiner is not saying that such limitations absolutely will or do define over the rejections as set forth above, but feels that something along those lines is the best chance to do so. Examiner is open to an interview at Applicant's convenience to discuss such matters.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 6am-10am, 12pm-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Justin M Larson/  
Examiner, Art Unit 3782  
3/21/08

/Nathan J. Newhouse/  
Supervisory Patent Examiner, Art Unit 3782